PERSONAL UMBRELLA LIABILITY POLICY

SPECIAL WORDS

Words with special meanings are used in this policy. The words with special meaning are shown in boldface type. You must refer to the DEFINITIONS of this policy to understand the special meaning of the words in boldface type.

AGREEMENT

This policy is a legal contract between you and us. It includes the declarations page and any attached endorsements. We agree to provide the insurance described in this policy. You agree to pay the premiums and comply with the policy terms.

DEFINITIONS

The terms defined below appear in bold type throughout this policy:

1. You and your mean the person named in the Declarations and spouse who lives in the same household.
2. We, us and our mean Mutual of Enumclaw Insurance Company of Enumclaw, Washington.
3. Aircraft means any contrivance used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo.
4. Business means any trade, profession, or occupation.
5. Business property means premises on which a business is conducted, or property rented or held for rental in whole or in part to others.
6. Declarations means the policy Declarations, an amended Declarations, changes added by the most recent renewal notice or certificate, with an endorsement changing any of these.
7. Insured means you and also:
   a. Any member of your household. But with respect to motor vehicles, a member of your household is covered only:
      (1) while using a motor vehicle owned by you; or
      (2) while using a motor vehicle not owned by you or a member of your household when such use is with the reasonable belief that the person using it is entitled to do so.
   b. Any person while using, with your permission, a motor vehicle or watercraft owned, rented or borrowed by you or on your behalf.
   c. Any person or organization having your permission to use or care for an animal you own.
None of the following is an insured:

a. The owner or provider of motor vehicles or watercraft borrowed or rented by you or on your behalf.

b. Anyone (other than you) while employed or engaged in the business of selling, maintaining, storing, parking, or mooring motor vehicles or watercraft. Also, any person or organization (other than you) who is liable for the acts or omissions of such persons.

c. Any person or organization (other than you, your employees or agents, or a member of your household) loading or unloading motor vehicles or watercraft.

8. Loading or unloading means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or motor vehicle;

b. While it is in or on an aircraft, watercraft or motor vehicle; or

c. While it is being moved from an aircraft, watercraft or motor vehicle to the place where it is finally delivered; but loading or unloading does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or motor vehicle.

9. Member of your household means anyone who lives in your household and who is:

a. related to you by blood or marriage;

b. your ward or adopted child; or

c. under the age of 21 and in your care.

10. Motor vehicle means a land motor vehicle, trailer or semi-trailer. This includes farm tractors, trailers and implements.

11. Named insured means the person named in the Declarations and the spouse. The spouse must be a member of your household.

12. Occurrence means an accident, which happens anywhere during the policy period, whose effects are neither expected nor intended from the standpoint of any insured, which results in:

a. personal injury; or

b. property damage.

An accident includes the acts in Item c., d., e. and f. of the personal injury definition. An accident also includes continuous or repeated exposure to the same conditions.

13. Personal injury means:

a. bodily injury including death, sickness or disease, disability or shock;

b. mental anguish or mental injury;

c. false arrest, detention or imprisonment, or malicious prosecution;

d. libel, slander, or defamation of character;
e. invasion of privacy, wrongful entry or eviction;
f. bodily injury arising from the use of reasonable force by you or at your direction if such injury arises for the purpose of protecting persons or property.

**Personal injury** does not include any of the following which are communicable:

a. disease, bacteria, parasite, virus or other organism, any of which are transmitted by any insured; nor does personal injury include
b. exposure to any such disease, bacteria, parasite, virus or other organism by any insured.

14. **Property damage** means physical injury to, destruction of, or loss of use of tangible property.

15. **Retained limit** means the greater of:

a. the amount equal to the limits of liability stated for each underlying policy plus the limits of any other underlying insurance collectible by any insured; or
b. the amount stated after retained limit in Item 2 of the Declarations.

16. **Ultimate net loss** means the amount any insured is legally obligated to pay as damages because of:

a. court judgment; or
b. compromise involving our written consent.

c. All recoveries and salvage collected will be deducted from this amount.

Ultimate net loss does not include the following expenses incurred by any insured, us or an underlying insurer:

a. legal expenses (such as attorney's fees and court costs);
b. salaries of employees;
c. office expense.

17. **Underlying policy** means a policy listed in Item 4 of the Declarations and its renewal or replacement.

**INSURING AGREEMENT**

We will pay the insured's ultimate net loss in excess of the retained limit for personal injury or property damage caused by an occurrence during the policy period.

This coverage applies separately to each insured. This does not increase our limit of liability for any one occurrence.
This policy does not cover:

1. any liability that is payable, would be payable, or for which coverage must be provided under any of the following laws:
   a. Employees Retirement Income Security Act (ERISA) of 1974; or
   b. Uninsured motorists, underinsured motorists or automobile no-fault or first party bodily injury or property damage law of any state; or
   c. Workers compensation; unemployment compensation, disability benefits or any other similar law.

2. any liability arising out of the ownership, maintenance or use, including loading or unloading of:
   a. any aircraft
   b. watercraft any insured owns while away from the residence premises if:
      (1) the watercraft is powered by one or more outboard motors with more than 25 total horsepower;
      (2) the watercraft has inboard or inboard-outboard motor power of more than 50 horsepower; or
      (3) it's a sailing vessel (with or without auxiliary power) exceeding 31 feet in overall length.
   Part b. of this exclusion does not apply when:
      (1) coverage is provided by an underlying policy; or
      (2) you ask us to insure the watercraft within 45 days of its purchase or acquisition and pay any additional premium due.

3. any business pursuits or business property (other than farms) of any insured unless insurance is provided by an underlying policy. (Coverage under this policy will not be broader than the underlying policy.)
   This exclusion does not apply with respect to the ownership, maintenance or use, including loading or unloading of any motor vehicle or watercraft under 31 feet unless the motor vehicle or watercraft are for hire or to carry passengers for a charge.

4. the giving or failing to give professional service by any insured.

5. liability assumed by any insured under any contract for property damage to property the insured rents, occupies, uses or controls to the extent such assumed liability is greater than the liability imposed upon the insured by law.

6. liability arising from membership on a board of directors or as an officer of an organization except charitable, religious and civic non-profit organizations, if the charitable, religious or civic non-profit organization does not involve your business or profession.

7. liability assumed by any insured under any contract or agreement for personal injury or property damage due to war (declared or not), civil war, insurrection, rebellion or revolution. This includes any act or condition related to these causes.
8. **personal injury** or **property damage** for any **insured** who is also covered under a Nuclear Energy Liability Policy. This exclusion applies even if that policy's limits of liability have been exhausted.

9. **property damage** to:
   a. property owned by any **insured**;
   b. **aircraft** any **insured** rents, uses or controls;
   c. any property any **insured** rents, uses, occupies or controls to the extent the **insured** has agreed to provide insurance.

10. **legal liability**:
    a. to any person who is in any **insured's** care because of child care services provided by or at the direction of:
       (1) **you**;
       (2) your employee;
       (3) any other person actually or apparently acting on **your** behalf; or
       (4) any **member of your household**.
    b. to any person who makes a claim because of **personal injury** to any person who is in any **insured's** care because of child care services provided by or at the direction of:
       (1) **you**;
       (2) your employee;
       (3) any other person actually or apparently acting on **your** behalf; or
       (4) any **member of your household**.

This exclusion does not apply:
   a. to the extent that coverage is provided by an **underlying policy** of insurance; or
   b. to the occasional child care service provided by **you**; or the part-time child care services provided by any **insured** who is under 19 years of age.

11. a. **bodily injury** or **property damage** arising out of the actual, alleged or threatened discharge, dispersal, release or escape of pollutants:
       (1) at or from premises owned, rented or occupied by any **insured**;
       (2) at or from any site or location used by or for any **insured** or others for the handling, storage, disposal, processing or treatment of waste;
       (3) which are at any time transported, handled, stored, treated, disposed of or processed as waste by or for any **insured** or any person or organization for whom any **insured** may be legally responsible; or
       (4) at or from any site or location on which any **insured** or any contractors or subcontractors working directly or indirectly on behalf of any **insured** are performing operations;
(i) if the pollutants are brought on or to the site or location in connection with such operations; or
(ii) if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize the pollutants.

b. to any loss, cost or expense arising out of any governmental direction or request that any insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Subparagraphs (1) and (4)(i) of paragraph a. of this exclusion do not apply to bodily injury or property damage caused by heat, smoke or fumes from a fire, if the fire;

(1) is set by an insured, and
   (i) is set for the purpose of burning off crop stubble or other vegetation and
   (ii) is consistent with normal and usual agricultural practice, and
   (iii) is not set in violation of an ordinance or law; or
(2) is a hostile fire.

As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

12. for personal injury to any insured or any member of your household.

13. for your share of a loss assessment charged against you as a member of an association of property owners.

14. for any loss arising out of:
   a. entrustment by any insured to any person;
   b. negligent supervision by any insured of any person;
   c. any liability statutorily imposed on any insured; or
   d. any liability assumed through an unwritten or written agreement by any insured;

with regard to the ownership, maintenance or use of any aircraft, watercraft or motorized land conveyance unless covered by underlying insurance described in the Declarations.

15. for any loss arising out of any insured's participation in, preparation or practice for any race, speed or demolition contest, or similar competition involving a motor vehicle or motorized watercraft.

LIMIT OF LIABILITY

The most we will pay for personal injury or property damage from any one occurrence is the limit of liability in Item 1 of the Declarations, regardless of the number of insureds, claimants or claims made.

There is no limit to the number of occurrences during the policy period for which claim may be made.
DEFENSE COVERAGE

1. If this policy covers liability not covered by your underlying policies or any other policies you can collect from, we will:
   a. defend any suit against any insured, even if it is groundless or fraudulent. We may investigate, negotiate and settle a claim or suit as we see fit.
   b. pay premiums on bonds to release attachments, appeal bonds, and bail bonds required in a suit we defend but not for bond amounts more than the limit of liability of this policy.
   c. pay our expenses and any insured's court costs for suits we defend.
   d. pay the interest accruing after entry of judgment until we have paid, tendered or deposited in court that part of the judgment which does not exceed our limit of liability.
   e. pay prejudgment interest awarded against you on that part of the judgment we pay.
   f. pay reasonable expenses any insured incurs at our request. This includes loss of earnings (but not other income) up to $100 a day.

   We will pay these expenses (except for claim or suit settlement payments we make) in addition to this policy's applicable limit of liability. In any country where we can't carry out this agreement, we will pay any expense incurred with our written consent.

   Our obligation to defend a claim or suit ends when the amount we pay for damages equals our limit of liability.

   You must promptly reimburse us for any amount of ultimate net loss we pay within the retained limit.

2. When an underlying policy does apply to an occurrence, the defense costs are the sole responsibility of the underlying insurer. However, we have the right to join the insured in the defense and control of any claim likely to involve us.

3. If no coverage is provided under the Insuring Agreement of this policy, Defense Coverage does not apply.

CONDITIONS

YOUR DUTIES AFTER LOSS

Upon the happening of an occurrence likely to involve us, written notice must promptly be given to us or our agent. Such notice shall contain:

1. the identity of the policy and insured;
2. how, when and where it happened;
3. the names and addresses of injured persons and all witnesses.

If a claim is made or suit brought against any insured, you must notify us promptly in writing. Also, you must send the underlying insurer and us copies of every demand, summons or other legal papers related to the claim or suit.
The insured shall cooperate with us and, upon our request, assist in:

1. making settlements;
2. enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured;
3. the conduct of suits and attend hearing and trials;
4. securing and giving evidence and obtaining the attendance of witnesses.

**PAYMENT OF LOSS**

Any insured may pay the ultimate net loss amount to the claimant. Upon submission of proof, we will reimburse the insured for that part of the payment that exceeds the retained limit subject to our limit of liability. Or, we will, upon the insured's request make payment to the claimant on the insured's behalf.

**LEGAL ACTION AGAINST US**

No legal action can be brought against us until:

1. The insured has complied with all policy terms.
2. The amount of any insured's obligation is finally set by judgment after a trial or settlement with our consent.

We cannot be brought into any action against an insured to determine an insured's liability.

**APPEALS**

If any insured or the underlying insurers elect not to appeal a judgment in excess of the underlying limits, we may elect to make such appeal at our expense.

**RESTATEMENT OF COVERAGE**

All coverage is derived from the Insuring Agreement. We will not pay any costs, interest, prejudgment interest or expenses unless coverage is provided under the Insuring Agreement.

**OTHER INSURANCE**

This insurance is excess over any other valid and collectible insurance. (An exception is insurance written specifically to cover as excess over the limits of liability that apply in this policy.)

**UNDERLYING INSURANCE EXHAUSTED**

If any underlying policies are exhausted by loss payments, we will take charge of the settlement or defense of any claim against any insured resulting from an occurrence covered by this policy.

**OUR RIGHT TO RECOVER PAYMENT**

If we pay under this policy and another person may be liable, we will share with any insured and any underlying insurer the insured's right to recover from such persons. The insured will not do anything to impair these rights after the loss.

Recoveries will be applied:

1. To repay anyone that has paid an amount greater than the Policy Limits;
2. To pay us for the amount we have paid;
3. Last, to pay anyone entitled to claim the remainder.

A different distribution may be made if all parties agree. Reasonable expenses of the recovery will be distributed in proportion to each party's loss.

**CHANGES**

This policy contains all agreements between **you** and **us**. Its terms can be changed only by **our** endorsement.

When **you** request changes in this policy between anniversary dates, **we** reserve the right to adjust the premium in accordance with the change. Any additional or return premium of $5.00 or less will be waived.

**ENTIRE CONTRACT**

This policy, the **Declarations**, and endorsements, if any, include all the agreements between **you** and **us** relating to this insurance.

**ASSIGNMENT**

Assignment of this policy is not valid unless **we** agree in writing.

**BANKRUPTCY OR DEATH**

**Your** bankruptcy or insolvency does not free **us** of **our** obligations under this policy. If, however, **you** die, become bankrupt or insolvent within the policy period, this policy, unless cancelled, covers **your** legal representative for the unexpired term.

**KEEPING YOUR UNDERLYING POLICIES IN FORCE**

**You** must continue the **underlying policies** while this policy is in force. **We** will allow reduction in their limits only if they are reduced because of loss payments which happen during the policy period. However, **you** must:

1. Inform **us** as soon as possible of this reduction.
2. Try to restore reduced limits of any **underlying policy**.

If **you** fail to comply, this policy is still valid. However, **we** will pay only the amount **we** would have paid if **you** had complied.

**We** ask that **you** write **us** if an **underlying policy** is:

- a. cancelled; or
- b. there is a change in coverage or limits.

**CANCELLATION**

This policy may be cancelled as follows:

1. **You** may cancel by:
   a. returning this policy to **us**; or
   b. giving **us** advance written notice of the date **you** want coverage to end.

**We** will refund the unearned premium, figured by **our** pro rata procedure.
2. **We** may cancel this policy by sending written notice to **you** at the address shown on the **Declarations**. **We** will send it at least 30 days before the cancellation date. **We** will send **you** a refund of the unearned premiums, figured pro rata.

**We** may deliver this notice instead of mailing it. Proof of mailing shall be sufficient proof of notice.

**NONRENEWAL**

**We** may decide not to renew **your** policy. If **we** do, **we** will send written notice to your address shown on the **Declarations**. Notice will be mailed at least 30 days before the end of the policy period. Proof of mailing shall be sufficient proof of notice.

**STATE STATUTES**

When any policy provision is in conflict with any law, that law shall control.

**INSOLVENCY**

When coverage is not available from an **underlying policy** because the company is insolvent, this policy will not replace coverage of any state, provincial or association guarantee fund available for the loss. If an insolvency occurs **we** will pay only the amount **we** would have paid if the insolvency had not occurred.